

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 163 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

ROHIT MILLS LTD.

Appearance:

MR BB NAIK WITH MR MANISH R BHATT for Petitioner
MR MANISH J SHAH FOR MR J.P.SHAH for Respondent

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.R.DAVE

Date of decision: 09/02/99

ORAL JUDGEMENT (per J.N.Bhatt, J.)

By this reference under section 256(1) of the Income Tax Act, 1961, the Income Tax Appellate Tribunal, Ahmedabad has referred the following two questions of law, for our opinion:

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the order of assessment was to be treated as merged with the Appellate order with regard to issues which were not the subject matter of appeal before the law authorities ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the order passed by the Commissioner of Income-Tax on 28th June, 1979 under section 263 of the Income tax Act, 1971 was liable to be set aside ?"

2. At the time of hearing of this matter, it was fairly pointed out that the controversy arising out of the aforesaid two questions has been resolved by the Hon'ble Supreme Court in Commissioner of Income Tax v. Shri Arbuda Mills Ltd, 231 ITR 50.

3. In the light of the aforesaid facts and circumstances and the aforesaid decision of the Hon'ble Supreme Court, in our opinion, the reference is required to be answered in the negative. Accordingly, both the questions are answered in the negative, i.e. against the assessee and in favour of the revenue. Accordingly, the reference stands disposed of with no order as to costs.

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(vjn)